IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO. 1938 OF 1990

Ramchandra Bapu Chavan and anr. .. Petitioners

Vs.

The State of Maharashtra and ors. .. Respondents

Mr. S.M. Kamble for Petitioners.
Mr. V.S. Gokhale, AGP for the State.

CORAM : B. H. MARLAPALLE &
D. B. BHOSALE,JJ.

Date : March 06, 2006.

P.C.:

1. This petition under Article 226 of the Constitution arises from the order passed by the Additional Commissioner, Pune Division, Pune in Revision Application No.1 of 1989 filed under Section 15A of the Land Acquisition Act, 1894 (the Act for short) on 5/2/1990.

2. The petitioners are the owners of agricultural land located in Gat No.6/4/2 of village Khindwadi in Satara Taluka. The respondent no.5 passed Resolution on 13/12/1984 so as to approach the State Government with a request to acquire additional land for its ever expanding activities of market yard and it had proposed the land from Survey No.6/1(b), 6(2), 7(4)

totally admeasuring 6 Hectares and 3 Ares and on the basis of the said Resolution the State Government initiated land acquisition proceedings. The petitioners submitted their representation opposing the acquisition of their land. These objections were considered and declaration dated 10/2/1988 came to be published under Section 6 of the Act by the Additional Commissioner subsequent to the Notification published under Section 4(1) of the Act on 21/7/1987. The petitioners, therefore, filed Revision Application under Section 15A of the Act before the State Government and it appears it was heard and decided by the Additional Commissioner, Pune Division, Pune under his delegated powers and by the impugned order the revision was dismissed.

3. While granting Rule, this court was pleased to grant interim relief in terms of prayer clause (e) and as a result of which the further acquisition proceedings came to be stayed during the last about 16 years. The respondent no.5 for whom the land was sought to be acquired has filed an affidavit in reply and set out in detail its bonafide requirements for the expansion of its ever growing activities as well as the suitability of the land under acquisition. It has also been clarified that the alternative land

suggested by the petitioners is a forest land which cannot be acquired for construction of the market yard. The allegations of the petitioners that the respondent no.5 has some alternative land under its ownership have also been denied and the insistence of the respondent no.5 for the suitability of the subject land has been reiterated. We have, with the help of the learned counsel for the petitioners, gone through the impugned order passed by the Additional Commissioner, Pune Division, Pune and we are satisfied that the inquiry report, as made under Section 5A, has been duly considered, including the objections raised by the petitioners for the proposed acquisition and they have been rightly overruled. In his limited powers, the Additional Commissioner has examined the record and come to a conclusion that the proceedings initiated by the Land Acquisition Officer until the stage of the declaration having been published under Section 6 of the Act did not suffer from any illegality.

4. The learned counsel for the petitioners at this stage on taking instructions from his client, present in the court, sought leave to withdraw the petition and with liberty to approach the State Government i.e. Additional Commissioner with an

application under Section 48(1) of the Act, more so because the land is still in possession of the petitioners and on account of the stay order of this court passed on 5/4/1990 the acquisition proceedings could not proceed further.

5. We, therefore, grant leave to withdraw the petition and the petition is disposed as such. Rule is discharged with liberty to the petitioners to approach the Competent Authority with an application under Section 48(1) of the Act and if such an application is presented within a period of three weeks from today, the stay order of this court will continue for a period of four weeks from today. No costs.

(D.B. Bhosale,J.) **(B.H. Marlapalle, J.)**